

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.7473 OF 2005

Between

Dr.V.Venkata Ramana son of Appala Swamy

...Petitioner

vs.

The Registrar, Central Institute of English and Foreign Languages, Osmanai
University Campus, Tarnakad and three others.

...Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

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ORAL ORDER

The writ petition is filed, in substance, seeking a declaration that the Central Institute of English and Foreign Languages, Hyderabad should release the amounts constituting the leave salary and pension contribution of the petitioner for the period of two (2) years-11 months and 19 days and deposit these amounts to the petitioner's credit in the University of Hyderabad-his parent employer and for a direction to the 4th respondent to count the period of the petitioner's service with the Central Institute of English and Foreign Languages, as qualifying service pursuant to the V.R.S Order dated 23-02-2005 and release his retirement benefits in full.

The petitioner was working as a Deputy Librarian in the University of Hyderabad. He negotiated and obtained employment as a Librarian on a tenure basis for a period of two (2) years in the Central Institute of English and Foreign Languages. While the petitioner was being relieved the University of Hyderabad issued proceedings dated 16-02-2002 *inter alia* recording that the contributions in respect of the petitioner on account of his leave salary and pension should be paid either by his foreign employer (the Central Institute of English and Foreign Languages) or by himself at the specified rates to be informed separately. The Central Institute of English and Foreign Languages however by the office memorandum dated 26-02-2002 clearly recorded that the statutory recoveries in respect of the petitioner, such as leave salary, pension contribution and the like would be recovered from the petitioner's salary as long as he continues on the rolls of the Central Institute of English and

Foreign Languages and these would be remitted to the University of Hyderabad. However, the Central Institute of English and Foreign Languages failed to make recoveries of the leave salary and pension contributions of the petitioner and failed to deposit these amounts to the University of Hyderabad.

The petitioner's term at the Central Institute of English and Foreign Languages however ended on 18-02-2005 and he was repatriated to his parent employer-the University of Hyderabad. He applied for retirement on voluntary retirement scheme basis. This request was accepted by the University of Hyderabad and he was retired on VRS basis on 23-02-2005. Since the University of Hyderabad did not receive the leave salary and pension contribution either from the Central Institute of English and Foreign Languages, the foreign employer of the petitioner at that time or from the petitioner directly, the University of Hyderabad addressed the petitioner to pay the amounts (of leave salary and pension contribution) for the period he was in the employment of the Central Institute of English and Foreign Languages.

It is the admitted factual scenario that on account of such delayed payment the petitioner is not made liable to any penal interest or excess amounts towards the leave salary and pension contribution and the liability is restricted to the actual monthly installments of leave salary and pension contributions that ought to have been remitted by or on behalf of the petitioner, to the parent employer.

Sri B.Vijaysen Reddy learned counsel for the petitioner would contend that in the University of Hyderabad-his parent employer the leave salary and pension contributions are subscribed by the employer and that if these amounts were to be paid by the petitioner (for the period of his service in the Central Institute of English and Foreign Languages) he would be put to considerable monetary loss and that he was entitled to pay and emoluments protection during his service with the Central Institute of English and Foreign Languages.

The above contention has no legal basis. The petitioner accepted employment with the Central Institute of English and Foreign Languages on a clear understanding that the statutory recoveries (including in respect of the leave salary and pension contributions) would be from his salary as is apparent from the memorandum dated 26-02-2002 which incorporated the terms of the conditions of his service with the Central Institute of English and Foreign Languages. The petitioner is thus estopped from claiming that the Central Institute of English and

Foreign Languages should fund this part of the petitioner's obligation, namely leave salary and pension contribution. The petitioner entered the service of the Central Institute of English and Foreign Languages with a clear understanding and on clear notice that the leave salary and pension contribution are to be deducted from his salary.

The other aspect pleaded by the counsel for the writ petitioner is for counting of his service in the Central Institute of English and Foreign Languages for the benefits of the voluntary retirement scheme. Sri B.Vijaysen Reddy, learned counsel for the writ petitioner states that because of the non-payment of the leave salary and pension contribution by the Central Institute of English and Foreign Languages the respondent-university has not counted that period for the purpose of computing voluntary retirement scheme benefits and as the petitioner is now ready and willing remit the amounts towards the leave salary and pension contribution, the University of Hyderabad would count the period of petitioner's service in Central Institute of English and Foreign Languages also for the purpose of computing his voluntary retirement scheme benefits. Therefore, this grievance does not survive for adjudication. The petitioner also sought payment of leave encashment benefits. Admittedly this claim has been acceded to by the Central Institute of English and Foreign Languages. Therefore, this aspect of the matter also does not survive for adjudication.

On the above analysis the writ petitioner is not entitled to any relief. He should bear the leave salary and pension contributions burden for the period of his tenure with Central Institute of English and Foreign Languages during the year 2002-2003 for a period of two (2) years-11 months and 19 days.

The writ petition is dismissed. In the circumstances, without costs.

GODA RAGHURAM,J

25th NOVEMBER 2005

*TSNR